

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ARTHUR BABERS,)
Plaintiff,)
v.) CIVIL ACTION NO.
AMERICAN INTERNATIONAL GROUP, INC.;) 2:06-cv-00077-WHA
et al.,)
Defendants.)

JOINT MOTION TO DISMISS WITHOUT PREJUDICE

COMES NOW Plaintiff Arthur Babers and Defendants American International Group, Inc., American General Corporation, American General Financial Services of Alabama, Inc., in and of itself and as successor to American General Finance, Inc., an Alabama corporation, American General Finance Corporation, Merit Life Insurance Company, Yosemite Insurance Company, and Kimberly Milstead, f/k/a Kimberly Singleton (hereinafter collectively referred to as the "Defendants"), by and through their undersigned counsel, appearing specially so as to preserve any and all defenses available under Rule 12 of the Federal Rules of Civil Procedure, and specifically preserving the right to seek arbitration pursuant to 9 U.S.C. § 1 *et seq.*, and hereby jointly move this Court to enter an order dismissing the present action without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure and other applicable law. In support thereof, the Parties state as follows:

Pursuant to Rule 41 of the Federal Rules of Civil Procedure and other applicable law, Plaintiff moves this Court without opposition from Defendants to dismiss all of Plaintiff's claims in this Action without prejudice, but subject to the following terms and conditions:

- (1) that all of Plaintiff's claims against all Defendants herein are dismissed without prejudice;
- (2) that to the maximum extent allowed by applicable law, should Plaintiff subsequently file a new action(s) concerning the exact transactions and occurrences at issue in this Action, and do so no later than 10 calendar days from the date of entry of this Order, for purposes of the applicable statute(s) of limitations only, any such action(s) shall be deemed to have been filed on the same day the instant Action was filed; and
- (3) that this Action in its entirety is hereby dismissed without prejudice.

WHEREFORE, the Parties respectfully move this Court to enter an order dismissing this Action without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure and the terms and conditions outlined above.

Respectfully submitted,

/s/ C. Lance Gould
C. Lance Gould (GOU007)

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ATTORNEYS FOR DEFENDANTS AMERICAN GENERAL FINANCIAL SERVICES OF ALABAMA, INC., formerly known as AMERICAN GENERAL FINANCE, INC., a Delaware corporation, on its own behalf and as successor to AMERICAN GENERAL FINANCE, INC., an Alabama corporation, AMERICAN GENERAL FINANCE CORPORATION, MERIT LIFE INSURANCE CO., YOSEMITE INSURANCE COMPANY, and KIMBERLY MILSTEAD

/s/ Thomas Julian Butler
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